

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

UNITED STATES OF AMERICA,)
Petitioner,)
V.)
\$553,112.68 IN UNITED STATES)
CURRENCY,)
Respondent.)
CIVIL NO. SA-19-CV-1033

VERIFIED COMPLAINT FOR FORFEITURE

Comes now Petitioner United States of America, by and through the United States Attorney for the Western District of Texas and the undersigned Assistant United States Attorney, pursuant to Rule G, Supplemental Rules for Admiralty or Maritime Claims and Asset Forfeiture Actions, Fed. R. Civ. P., and respectfully states as follows:

I.

NATURE OF THIS ACTION

This action is brought by the United States of America seeking forfeiture to the United States of the following property:

\$553,112.68 in United States Currency Seized from Citibank Bank Account XXXXX7341 in the Name of Construction Limited,

hereinafter the "Respondent Property."

II. **JURISDICTION AND VENUE**

Under Title 28 U.S.C. § 1345, this Court has jurisdiction over an action commenced by the United States, and under Title 28 U.S.C. § 1355(a), jurisdiction over an action for forfeiture. This

Court has *in rem* jurisdiction over the Respondent Property under Title 28 U.S.C. §§1355(b) and 1395. Venue is proper in this district pursuant to Title 28 U.S.C. § 1355(b)(1) because the acts or omissions giving rise to the forfeiture occurred in this district, and pursuant to Title 28 U.S.C. §§ 1355(b)(1)(B) and 1395(b) because the Respondent Property is found in this district.

III.
STATUTORY BASIS FOR FORFEITURE

This is a civil forfeiture action *in rem* brought against the Respondent Property for violation of Title 18 U.S.C. § 1343 and subject to forfeiture to the United States of America pursuant to Title 18 U.S.C. § 981(a)(1)(C), which states (with emphasis added):

§ 981. Civil forfeiture

(a)(1) The following property is subject to forfeiture to the United States:

(C) Any property, real or personal, which constitutes or is derived from proceeds traceable to . . . any offense constituting “*specified unlawful activity*” (as defined in section 1956(c)(7) of this title)

↓

§ 1956. Laundering of monetary instruments

(c) As used in this section—

(7) the term “*specified unlawful activity*” means—

(A) any act or activity constituting an offense listed in section 1961(1) of this title

↓

§ 1961. Definitions

As used in this chapter—

(1) “racketeering activity” means . . . **(B)** any act which is indictable under any of the following provisions of *title 18, United States Code*: . . . section 1343 (*relating to wire fraud*)

IV.
FACTS IN SUPPORT OF VIOLATION

On June 18, 2019, Special Agent (SA) Jason Bollen, United States Secret Service

(hereinafter “USSS”), was contacted by representative of Frost Bank advising him that their customer, the City of Coppell, TX, was victimized by a Business Email Compromise (BEC) scam. Law enforcement officers and agents generally recognize a BEC as the common name used to describe the illegal activity of criminals targeting a business and taking over its identity (thereby compromising the business entity); then convincing an unsuspecting victim to send funds to a specified account which appears to belong to the business but is actually controlled by the criminals.

Specifically the Frost Bank representative advised SA Bollen that their customer, the City of Coppell, TX, reported that they sent wire transfers for a total amount of \$801,439.04. The Frost Bank representative provided the following details regarding the fraudulent wire transfers which were all sent in interstate commerce to a Citibank Account number XXXXX7341 (hereinafter **Citibank account 7341**):

<u>DATE</u>	<u>WIRE TRANSFER</u>	<u>AMOUNT</u>
06/10/2019	ACH Wire Transfer from Frost Bank/City of Coppell, TX	\$369,177.56
06/17/2019	ACH Wire Transfer from Frost Bank/City of Coppell, TX	<u>\$432,261.47</u>
TOTAL:		\$801,439.03

On June 18, 2019, SA Bollen contacted an investigator with Citibank who confirmed the two ACH wire transfers into the subject account. The investigator advised that there was approximately \$553,000.00 remaining in the account and that the rest of the funds were wired out to domestic (Woodforest National Bank, Fifth Third Bank) and international (Deutsche Bank) financial institutions. SA Bollen requested that a hold be placed on the account. The investigator provided the information regarding the wire transfers to Woodforest National Bank and Fifth Third Bank.

On June 19, 2019, SA Bollen contacted City of Coppell, TX Director of Finance, Jennifer Miller (hereinafter “Miller”). Miller advised that the City of Coppell, TX, was defrauded out of a total of \$801,439.03. Miller stated that on May 9, 2019 Coppell, TX city employee, Cheryl Hall, received a spoof email which contained an ACH payment change form. Miller advised that the spoofed email was received from email address accounts@tiseopavingco.com. Miller also advised that an example of a genuine email from Tiseo looks like mtaylor@tiseopaving.com. The ACH payment change form requested payment for services be sent to **Citibank account 7341**. Miller stated that Tiseo Paving performs street construction for the City of Coppell. Miller stated that in response to the change in payment instructions in the email, the City of Coppell, TX, wired \$369,177.56 on June 10, 2019, and wired an additional \$432,261.47 on June 17, 2019. Each wire was to **Citibank account 7341**.

Miller then stated that on June 18, 2019, a representative of Tiseo Paving called inquiring about payment. Miller advised that it was at that moment they realized they had been defrauded of funds. She stated that the representative for Tiseo Paving denied sending an ACH change form and that the Citibank account that received the funds has no association to their business (Tiseo).

On June 19, 2019, USSS obtained a state seizure warrant from the Bexar County 144th District Court to seize funds up to \$553,112.68 in **Citibank account 7341**. On June 19, 2019, USSS executed the state seizure warrant on **Citibank account 7341** and received \$553,112.68 in the form of cashier’s check number 115557815, which is the Respondent Property in this civil complaint. On June 19, 2019, USSS SA Taylor Davis made several attempts to contact **Citibank account 7341** owner Christopher Hutchen by telephone.

On June 26, 2019, the USSS received information from Citibank regarding **Citibank account 7341**. The information contained the outgoing wires from the account:

06-11-2019	Woodforest National Bank	\$36,875.50
06-11-2019	Fifth Third Bank	\$13,123.00
06-12-2019	Deutsche Bank	\$49,832.90
06-14-2019	Fifth Third Bank	\$24,976.00
06-14-2019	Woodforest Bank	\$23,990.00
06-17-2019	Deutsche Bank	\$49,563.50
06-18-2019	Fifth Third Bank	\$33,972.00
06-18-2019	Woodforest Bank	<u>\$15,027.00</u>

TOTAL: \$247,359.90

The following day, June 27, 2019, SSA Jason Bollen attempted to contact **Citibank account 7341** owner Christopher Hutchen (“Hutchen”) by telephone and email. After responding to the email sent the day prior, on June 28, 2019, Hutchen contacted SA Jason Bollen via telephone. During the conversation with SA Bollen, Hutchen stated that he is staying in various hotels in the Chicago, IL area and does not have a permanent house or phone. Hutchen denied being involved in fraudulent activity. Hutchen further stated that someone stole his identity and has “messed up his life ever since he was released from prison in November 2017.” Hutchen denied any knowledge about the \$801,439.03 that was deposited via two ACH wire transfers into his account. Hutchen confirmed that he opened the account in conjunction with a construction business he opened that was supposed to be funded by his aunt. He denied conducting any of the wire transfers out of his account into a Woodforest National Bank account owned by Deshon Kennedy, or to a Fifth Third Bank account which is owned by Shawn Richardson, or a Deutsche Bank account. Hutchen denied knowing anyone by the name of Deshon Kennedy or Shawn Richardson. Hutchen agreed to email this agent a statement of his involvement and agreed to sign a Waiver of Claim surrendering the \$801,439.03. On July 1, 2019, SA Jason Bollen received that Waiver of Claim signed by Christopher Hutchen surrendering \$801,439.03.

The USSS has learned through this investigation that all Frost Bank ACH wire transfers are initiated in and out of San Antonio, Texas within the Western District of Texas. Furthermore, the referenced ACH wire transfers are sent from servers located in Texas to the Federal Reserve Bank with servers located in New Jersey, then to Citibank with servers located in Texas and Ohio.

CONCLUSION

Based upon the foregoing facts, there is probable cause to believe that the funds contained in **CITI Bank Account 7341**, are proceeds which constitute or were derived from proceeds traceable to violations of Wire Fraud under Title 18 U.S.C. § 1343, and are subject to civil forfeiture pursuant to Title 18 U.S.C. § 981(a)(l)(C). The deposits into **CITI Bank Account 7341** were sent by wire transfers made in interstate commerce based on false representations as described herein.

V.
PRAYER

WHEREFORE, Petitioner, United States of America, prays that due process issue to enforce the forfeiture of the Respondent Property, that due notice pursuant to Rule G(4) be given to all interested parties to appear and show cause why forfeiture should not be decreed,¹ and in accordance with Rule G of the Supplemental Rules for Admiralty or Maritime Claims and Asset Forfeiture Actions, Fed. R. Civ. P., that the Respondent Property be forfeited to the United States of America, that the Property be disposed of in accordance with the law and for any such further relief as this Honorable Court deems just and proper.

¹ Appendix A, which is being filed along with this complaint, will be sent to those known to the United States to have an interest in the Respondent Property.

Respectfully submitted,

JOHN F. BASH
United States Attorney

By: _____

Fidel Esparza III
Assistant United States Attorney
Asset Forfeiture Section
601 NW Loop 410, Suite 600
San Antonio, TX 78216
Tel: 210-384-7040
Fax: 210-384-7045
Email: FEsparza@usdoj.gov
Texas Bar No. 24073776
Attorneys for the United States of America

VERIFICATION

Special Agent Jason Bollen, declares and says that:

1. I am a Special Agent with the United States Secret Service, assigned to the San Antonio Field Office, and I am the investigator responsible for the accuracy of the information provided in this litigation.
2. I have read the above Verified Complaint for Forfeiture and know: the contents thereof; the information contained in the Verified Complaint for Forfeiture has been furnished by official government sources; and the allegations contained in the Verified Complaint for Forfeiture are true based on information and belief.

Pursuant to Title 28 U.S.C. 1746, I declare under penalty of perjury that the foregoing is true and correct.

Executed on this the _____ day of _____, 2019.

Jason Bollen, Special Agent
United States Secret Service
San Antonio Field Office

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION**

UNITED STATES OF AMERICA,)
Petitioner,)
V.)
\$553,112.68 IN UNITED STATES)
CURRENCY SEIZED FROM CITIBANK)
ACCOUNT 801667341 IN THE NAME)
OF CONSTRUCTION LIMITED,)
Respondent.)
CIVIL NO. SA-19-CV-1033

NOTICE OF COMPLAINT FOR FORFEITURE

1. On the _____ day of _____, 2019, a Verified Complaint for Forfeiture *in rem* was filed in this Court by the United States Attorney for the Western District of Texas and Assistant United States Attorney Antonio Franco, Jr., against the property described below, which is also specifically described in the Verified Complaint for Forfeiture, for violation of Title 18 U.S.C. § 1343, Wire Fraud, and subject to forfeiture to the United States of America pursuant to Title 18 U.S.C. § 981(a)(1)(C), namely:

\$553,112.68 in United States Currency Seized from Citibank Bank Account XXXXX7341 in the Name of Construction Limited,

hereinafter the “Respondent Property.”

2. Pursuant to Supplemental Rule G(4)(b), notice to any person who reasonably appears to be a potential claimant shall be by direct notice. Accompanying this notice is the Verified Complaint for Forfeiture which has been filed in this cause and which describes the Respondent Property. Pursuant to Supplemental Rule G(4)(b), any person claiming an interest in the Respondent Property who has received direct notice of this forfeiture action must file a Claim,

APPENDIX A

in compliance with Rule G(5)(a), with the court within **thirty-five (35) days after the notice was sent, if delivered by mail (if mailed, the date sent is provided below), or within 35 days of the date of delivery, if notice was personally served.** An Answer or motion under Rule 12 of the Federal Rules of Civil Procedure must then be filed within **twenty-one (21) days** of the Claim being filed.

The Claim and Answer must be filed with the Clerk of the Court, 655 E. Cesar E. Chavez Blvd., Room G65, San Antonio, Texas 78206, and copies of each must be served upon Assistant United States Attorney Fidel Esparza III, 601 N.W. Loop 410, Suite 600, San Antonio, Texas 78216, or default and forfeiture will be ordered. *See* Title 18 U.S.C. § 983(a)(4)(A) and Rule G(5) of the Supplemental Rules for Admiralty or Maritime Claims and Asset Forfeiture Actions.

Failure to follow the requirements set forth above will result in a judgment by default taken against you for the relief demanded in the complaint.

DATE NOTICE MAILED:_____

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

UNITED STATES OF AMERICA,)
)
)
Petitioner,)
)
V.) CIVIL NO. SA-19-CV-1033
)
)
\$553,112.68 IN UNITED STATES)
CURRENCY,)
)
)
)
Respondent.)
)
)

WARRANT FOR THE ARREST OF PROPERTY

**TO THE UNITED STATES SECRET SERVICE, OR ITS DESIGNATED AGENT, OR
OTHER AUTHORIZED LAW ENFORCEMENT OFFICER OR ANY OTHER PERSON
OR ORGANIZATION AUTHORIZED BY LAW TO ENFORCE THE WARRANT:**

WHEREAS a Verified Complaint for Forfeiture *in rem* was filed on the _____ day
of _____, 2019, against the following property:

**\$553,112.68 in United States Currency Seized from Citibank Bank Account
XXXXX7341 in the Name of Construction Limited,**

hereinafter the "Respondent Property," alleging that the Respondent Property is subject to
forfeiture to the United States of America pursuant to Title 18 U.S.C. § 981(a)(1)(C) for violation
of Title 18 U.S.C. § 1343; and

WHEREAS an Order has been entered by the United States District Court for the Western
District of Texas that a Warrant for Arrest of Property be issued as prayed for by Petitioner United
States of America.

YOU ARE THEREFORE COMMANDED to arrest and take actual or constructive
possession of Respondent Property as soon as practicable by serving a copy of this warrant on the

custodian in whose possession, custody or control the Respondent Property is presently found, and to use whatever means may be appropriate to protect and maintain the Respondent Property in your custody until further order of this Court, including designating a substitute custodian or representative for the purposes of maintaining the care and custody of the Respondent Property and to make a return as provided by law.

SIGNED this _____ day of _____, 2019.

JEANNETTE CLACK
United States District Clerk
Western District of Texas

By: _____
Deputy

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

UNITED STATES OF AMERICA,)
Petitioner,)
V.)
\$553,112.68 IN UNITED STATES)
CURRENCY SEIZED FROM)
CITIBANK,)
Respondent.)
CIVIL NO. SA-19-CV-1033

ORDER FOR WARRANT OF ARREST OF PROPERTY

WHEREAS a Verified Complaint for Forfeiture *in rem* was filed on the _____ day of _____, 2019, against the following property:

\$553,112.68 in United States Currency Seized from Citibank Bank Account XXXXX7341 in the Name of Construction Limited,

hereinafter the “Respondent Property,” alleging that the Respondent Property is subject to forfeiture to the United States of America pursuant to Title 18 U.S.C. § 981(a)(1)(C) for violation of Title 18 U.S.C. § 1343; IT IS THEREFORE

ORDERED that a Warrant for Arrest of Respondent Property issue as prayed for, and that the United States Secret Service or its designated agent for the Western District of Texas, or any other law enforcement officer, or any other person or organization authorized by law to enforce the warrant, be commanded to arrest the Respondent Property and to take actual or constructive possession for safe custody as provided by Rule G, Supplemental Rules of Federal Rules of Civil Procedure until further order of the Court, and to use whatever means may be appropriate to protect and maintain the Respondent Property while in custody, including designating a substitute

custodian or representative for the purposes of maintaining the care and custody of the Respondent Property and to make a return as provided by law.

SIGNED this _____ day of _____, 2019.

UNITED STATES DISTRICT JUDGE

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

United States of America

(b) County of Residence of First Listed Plaintiff _____
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)
Fidel Esparza III, U.S. Attorney's Office
601 NW Loop 410, Suite 600, San Antonio, TX 78216
210-384-7040

DEFENDANTS

\$553,112.68 in United States Currency Seized from Citibank Account 801667341 in the Name of Construction Limited

County of Residence of First Listed Defendant Bexar
(IN U.S. PLAINTIFF CASES ONLY)NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF
THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

<input checked="" type="checkbox"/> 1 U.S. Government Plaintiff	<input type="checkbox"/> 3 Federal Question (U.S. Government Not a Party)
<input type="checkbox"/> 2 U.S. Government Defendant	<input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

	PTF	DEF	PTF	DEF
Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4 <input type="checkbox"/> 4
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5 <input type="checkbox"/> 5
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6 <input type="checkbox"/> 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/ Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input checked="" type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Tort to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/ Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	PRISONER PETITIONS <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement	<input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act	SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSDI Title XVI <input type="checkbox"/> 865 RSI (405(g))
				FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609 IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions

V. ORIGIN (Place an "X" in One Box Only)

<input checked="" type="checkbox"/> 1 Original Proceeding	<input type="checkbox"/> 2 Removed from State Court	<input type="checkbox"/> 3 Remanded from Appellate Court	<input type="checkbox"/> 4 Reinstated or Reopened	<input type="checkbox"/> 5 Transferred from Another District (specify) _____	<input type="checkbox"/> 6 Multidistrict Litigation - Transfer	<input type="checkbox"/> 8 Multidistrict Litigation - Direct File
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Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

Title 18 U.S.C. § 981(a)(1)(C)

VI. CAUSE OF ACTION

Brief description of cause:

forfeiture of proceeds from wire fraud

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION
UNDER RULE 23, F.R.Cv.P.

DEMAND \$

553,112.68

CHECK YES only if demanded in complaint:

JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD

FIDEL ESPARZA III

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE